

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 35 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
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STATE OF GUJARAT

Versus

JASHWANTKUMAR CHIMANLAL SHETH

Appearance:

PUBLIC PROSECUTOR for Petitioner
MS RITA P HASTIR for Respondent No. 1

CORAM : MR.JUSTICE S.M.SONI and
MR.JUSTICE A.R.DAVE

Date of decision: 09/04/97

ORAL JUDGEMENT

The State of Gujarat has preferred this appeal against the judgment and order of acquittal in Spl. Case no.5/1985 under Section 5(1)(4) and 5(2) of the Prevention of Corruption Act and under Section 161 of the

Indian Penal Code passed by the learned Spl.Judge,
Mehsana.

The respondent-accused in the said case came to be acquitted of the charges levelled against him. The respondent-accused has died on 21st November, 1995. Learned Advocate Mr. P.M. Vyas who had represented the respondent-accused in appeal has filed a note alongwith the death certificate with a request that the appeal in view of provisions of sub-section (1) of Section 394 of the Code of Criminal Procedure abates. Sub-section (1) of section 394 of the Code reads as under:

"394.(1) Every appeal under section 377 or section 378 shall finally abate on the death of the accused."

The appeal is under Section 378 and in view of the said clear and unambiguous provision, the appeal abates on the demise of the accused i.e. the respondent.

In the result, the appeal abates and stands disposed of as abated.

sf-sms